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HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM : HON'BLE MR. S.R.NAYAK, C.J. AND
HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION NO.613 OF 2006

Petitioner : Dilesh Kumar Rathore S/o Chamru
Rathore Ward No.-11 Dhodhi para,
Korba (CG)

versus

Respondents : 1. State of Chhattisgarh through
Secretary Deptt. of Home
D.K.S.Bhawan, Raipur (CG)

2. Superintendent of Police Korba, Distt-
Korba (CG)

3. Shri S.S.Patel, ASI Rampur Police
Chowki Korba, Distt.Korba (CG)

Present : Mr. Utkarsh Verma, Deputy Government Advocate appears
for the State of Chhattisgarh/respondents.

ORAL ORDER

(Passed on 12th of September, 2006)

The following order of the Court was passed by S.R.Nayak, C.J. :

In response to the Court's notice dated 2-5-2006, the respondents have filed return. In para 4, it is stated thus –

"It is respectfully submitted that as the charge-sheet was filed on 27-9-2005, the answering respondents cannot alter or amend the charge in the charge-sheet. They have done their duty in collecting evidence and

after doing the same, they have filed the charge-sheet. Here it is pertinent to mention that the facts stated by the petitioner have been established by way of legal evidence by the answering respondents. Now the question which remains for consideration is whether the accused had the intention to kill the children and whether the ingredients of Section 302 were fulfilled. The Investigating Agency is required to bring facts before the Court. It cannot opine as regards mental state of the accused. It is only the trial Court, which can go into the issue and decide the issue. Hence, if the petitioner is aggrieved by framing of charge by the trial Court, he may avail of the remedies available to him under the Law."

In view of what is stated in para 4, we should say that the allegations made in the letter sent to the Hon'ble Chief Justice of this Court are baseless. Hence, writ petition is dismissed. No costs.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge